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Informants Claims Examiner
Criminal Investigation Division
Internal Revenue Service Center

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Summary:

1. Evidence would strongly suggest that Arthur Andersen LLP, Burlington Northern Santa Fe Corporation (BNSF), The Land Conservancy of Seattle and King County (TLCSKC), and officials of King County, Washington, have conspired to commit federal tax fraud.
2. The Arthur Anderson appraisal for BNSF was for \$41.7 million, three times the value placed on the right of way by King County.
3. BNSF convinced King County and its middleman, The Land Conservancy of Seattle and King County (TLCSKC), to provide documentation to the IRS for a fraudulent tax write off.
4. TLCSKC and King County are aware that BNSF intended to take the fraudulent tax write-off.
5. Norm Maleng, Prosecutor for King County, might have prevented the Enron scandal, by dealing with this alleged ELST tax fraud in early 2000.
6. Senator John McCain might have prevented the Enron scandal, by dealing with this alleged ELST tax fraud in mid 2000.
7. Had Federal Judge Barbara Rothstein had the opportunity to analyze the evidence of federal tax fraud in May 2001, there might have not been an Enron scandal.
8. This may be just the "tip of the iceberg" with respect to BNSF, and other railroad companies, using the Rails to Trails Act to defraud the American public.
9. Nationwide, the Rails-to-Trails Conservancy becomes the common factor in these transactions.

Dear Sir:

In this declaration, I identify evidence that would strongly suggest that Arthur Andersen LLP, Burlington Northern Santa Fe Corporation (BNSF), The Land Conservancy of Seattle and King County (TLCSKC), and officials of King County, Washington, have conspired to commit federal tax fraud in the transactions associated with the railbanking of the East Lake Sammamish (ELS) right of way in King County, Washington.

This letter along with the enclosed IRS Form 211 establishes a claim for reward as allowed under Title 26 United States Code, Section 7623. This claim is being sent to the Criminal Investigation Division at three IRS Service Centers. The Ogden Service Center would have responsibility for Washington State, where the alleged fraud occurred. The Kansas City Service Center would have responsibility for Illinois, headquarters for Arthur Andersen LLP. The Austin Service center has responsibility for Texas, headquarters for BNSF. I send this to all three, assuming coordination between the offices.

While this is an application for reward, I am committed as an American who has been harmed by this alleged fraud, to help in any way possible to expose and prosecute the officials responsible for these acts. I will cooperate with, and aid, the Internal Revenue Service regardless if a reward is available or not.

Our nation will not survive if it becomes the privilege of the powerful to routinely and intentionally ignore the laws. I present, below, information and sources of facts that would lead a person to strongly suspect that has happened.

Background:

In 1996, Burlington Northern Santa Fe decided to abandon a spur line that ran for twelve miles along the eastern shore of Lake Sammamish in King County, Washington. For years King County had expressed a desire to obtain the right of way for a trail and park. It's obvious, from information and documents I have obtained, that BNSF obtained a greatly inflated appraised value of the right of way from Arthur Andersen LLP. It then convinced officials of King County and The Land Conservancy of Seattle and King County (TLCSKC) to provide documentation to the IRS, accepting a donation of the right of way at the inflated value. BNSF made this "donation" as a condition of railbanking the land under the Rails-to-Trails Act.

If the fraudulent tax write-off was taken by BNSF, it cheated the American taxpayers out of \$9 million to \$15 million in lost tax revenue. The range of \$9 million to \$15 million would vary depending on the portion of the right of way land that BNSF actually owned. BNSF instructed Arthur Andersen to appraise the right of way as if BNSF owned all the land, fee simple. That issue is being decided in a number of quiet title lawsuits, now in process. If the courts find that most of the right of way land was not owned by BNSF, the illegal write-off would be about \$40 million and would have criminally benefited BNSF for as much as \$15 million. Even if King County prevails in

every claim to fee simple title, the inflated appraisal would still have allowed BNSF to take an illegal write-off of around \$25 million and returned about \$9 million to BNSF in illegal tax benefits.

Evidence of Federal Tax Fraud:

Arthur Andersen-BNSF:

Arthur Andersen LLP was commissioned to appraise the right of way, or rail line, for BNSF in 1996, "...to assist [BNSF] management in accounting for the donation of the right of way...for rails to trails use." The date of the Appraisal was December 10, 1996. The report from Arthur Andersen to BNSF was dated January 21, 1997. The certified appraiser was William J. Carter. Other principles in the appraisal were Joseph G. Walsh and Bill M. Pantazopoulos.

The Anderson appraisal was for \$41.7 million. This amount is three times the value placed on the right of way by King County in an appraisal by Bruce C. Allen and Associates in July 1997. The Allen appraisal was for \$13.97 million.

My wife and I own a waterfront lot on Lake Sammamish that is bisected by the right of way. I found that Arthur Andersen appraised the right of land associated with my property at about \$510,000. **That is a ridiculously overvalued estimate.** In both 1996 and 1997 the King County Department of Assessments valued **all** of the land on my property at slightly less than \$400,000. The right of way portion of my **property contains no waterfront**, has **no access** to the street, and **comprises only about one third of my legally described lot**, yet Arthur Andersen appraised that small portion of the lot at significantly more than the value of all of the land. It is particularly disgusting that the King County Prosecutor would accept this inflated "donation" from BNSF, because the County's own tax appraisal department valued the land at much less, and its own right of way appraisal was a fraction of the value. It is common, in some areas, for tax appraisals to not represent market value. This is not the situation here. My property was purchased in 1993 for less than the King County Department of Assessments appraised value, and two recent market appraisals were found to be less than the present Department of Assessments value. The King County Department of Assessments has kept the assessed value very near the market value, over the years.

I have a copy of the 1996 Arthur Andersen appraisal. It was submitted as an exhibit to the federal court in the case of King County v Rasmussen. **The exhibit was struck from evidence on a motion by the King County Prosecutor. The King County Prosecutor provided the legal service for the County to purchase the right of way, and is a party to this alleged fraud.**

BNSF-TLCSKC:

BNSF instructed Arthur Andersen to appraise all of the right of way land as if BNSF owned it, fee simple. This instruction is documented on page 8 of the appraisal. BNSF then presented a draft sale agreement to Charles Montange, lawyer for The Land

Conservancy of Seattle and King County (TLCSKC). TLCSKC acted as a middleman in the transfer of the right of way from BNSF to King County. That draft agreement showed TLCSKC acknowledging a fair market value of \$41.7 million for the rail line (right of way) and agreeing to accept a donation of \$40.2 million. While Arthur Andersen is not named in the draft sale agreement, the right of way value was specified to be \$41.7 million, which is exactly the same as the Arthur Andersen appraisal. The connection is obvious.

In the final sale agreement between BNSF and TLCSKC, the language was changed, deleting the direct link to the \$41.7 million Arthur Andersen appraisal, but still referring to "...an independent appraisal...represented to be substantially higher than the consideration...". It would seem this change was designed to give **deniability** to TLCSKC and King County officials, while they were very aware that BNSF intended to take the fraudulent tax write-off at the inflated Arthur Andersen value.

It is suspicious that the copy of the draft sale agreement I have obtained is very distorted in the section that commits TLCSKC to provide documentation of the phony donation (alleged) to the IRS, but the rest of the document is very easy to read. When this document was released to the public, did an official of TLCSKC or the King County prosecutor's office alter it to reduce the chance the public would ask questions? When TLCSKC later sold a portion of the right of way to the City of Issaquah, it provided a copy of the BNSF-TLCSKC final sale agreement to the City. Page 6 of that document was omitted. Page 6 contains the same information that was distorted in the draft version. Copies of these documents, with a declaration stating these facts, were submitted as an exhibit to the Federal District Court in the case of King County v Rasmussen. **The exhibit was struck from evidence on a motion by the King County Prosecutor. The King County Prosecutor provided the legal service for the County to purchase the right of way, and is a party to this alleged fraud.**

TLCSKC-King County:

TLCSKC worked as a middleman in the railbanking transaction because there was a legal complication for King County to purchase or own a railroad, as I understand. It is apparent that TLCSKC and King County officials worked very closely together in these transactions because the right of way was resold/donated by TLCSKC to King County within a few hours after the purchase/donation from BNSF.

King County acknowledged the BNSF phony tax donation (alleged) in those papers of sale with the words "...accept a donation (bargain sale) of the Premises..."

What I've done to this point:

I uncovered the above information in the process of understanding my rights with respect to the railbanking of my land. When I tied together the evidence that suggests the four parties listed above committed federal tax fraud, I contacted a number of officials to report my findings.

On Monday, 31 Jan 2000, I wrote a personal letter (e-mail) to Norm Maleng, Prosecutor for King County, and detailed most of the information that I present above. That letter started, "I believe you, and other lawyers in the King County Prosecutor's Office, may have behaved criminally in the purchase of the ELST railroad easement." Mr. Maleng chose not to respond directly to the letter, but did respond a few months later by falsely accusing me of being a danger to the community in King County Superior Court. Resolution of that immoral and dishonest attack, and other violations of my civil rights by King County are part of the legal process that now sits unfinished in the Federal 9th Circuit.

If Arthur Andersen and BNSF conspired to falsely value the East Lake Sammamish right of way, **Mr. Maleng might have prevented the Enron scandal, by honestly dealing with the alleged ELST tax fraud in early 2000.** Did Mr. Maleng fail to react because he and other officials in King County government were involved in the fraud?

When Mr. Maleng refused to respond to my personal letter to him, I made the letter, and suspicions of federal tax fraud, available to the King County Executive, Ron Sims, the King County Council, Governor Gary Locke, and other local public officials. None of these officials responded in any significant way.

In July 2000, I wrote Senator John McCain, then Chairman of the Commerce, Science, and Transportation Committee of the U.S. Senate. Again, I described the evidence of federal tax fraud. In that letter I stated, "...I'm writing to inform you there is strong evidence that massive fraud has taken place in the Rails-to-Trails project on East Lake Sammamish in Washington State. Further, since the Governor of the State of Washington, and the leadership of King County are involved, there is little chance that this will be dealt with at the state level." Senator McCain did not respond to that letter (e-mail). **Senator McCain might have prevented the Enron scandal, by dealing with the alleged ELST tax fraud in mid 2000.** Why did Senator McCain fail to respond? In January 2001, I wrote Senator McCain a second time about the tax fraud. He failed to respond again. On his website, Senator McCain has a "Top Ten Pork List" detailing government waste. If verified, this fraudulent BNSF write-off would have been greater, in dollars, than all of his "Top Ten Pork List", combined. If controlling government waste is important to Senator McCain, why did he ignore this information?

In September 2000, I submitted the allegations of federal tax fraud to King County Superior Court as background information in a declaration. At the hearing, Judge Donald Haley stated that he had read all of the documents before the court, yet he made no comment or asked any questions about the alleged fraud.

In May 2001, these allegations of federal tax fraud were presented to Federal Judge Barbara Rothstein in her consideration of the King County motions for summary judgment, and motions to strike and dismiss in the case King County v Rasmussen. These motions from King County were granted, and evidence of the alleged federal tax fraud scheme was struck. **Had Federal Judge Rothstein had the opportunity to analyze the evidence of federal tax fraud in May 2001, there might have not been an Enron scandal.**

The struck evidence of this alleged tax fraud now sits with the Federal 9th Circuit Court awaiting consideration of the appeal. The appeal will not be considered in a time frame that will be helpful to the prosecution of Arthur Andersen LLP, so I ask that it be investigated, now. I'll release this declaration to the press and federal prosecutors within a few days, with the hope that it will be useful in understanding the role that Arthur Andersen has played in other questionable dealings. Also, I hope to use the current public interest in Arthur Andersen to encourage a formal investigation of the railbanking transactions in King County.

Implications of Federal Tax Fraud associated with Railbanking, Nationwide:

It seems likely, to me, that this is just the "tip of the iceberg" with respect to BNSF, and other railroad companies using the Rails to Trails Act to defraud the American public. Several of the persons associated with the ELS right of way transactions are affiliated with the national organization, the Rails-to-Trails Conservancy.

Mr. Peter Goldman, a Seattle based Lawyer and trails advocate, appears to be an unofficial party to the transactions. Mr. Goldman is on the board of directors for the Rails-to-Trails Conservancy, aided TLCSKC in the transaction, and previously served in the King County prosecutor's office.

Mr. Charles Montange was the lawyer for TLCSKC in the railbanking transaction. I understand that he is a previous board member of the Rails-to-Trails Conservancy, or affiliated with that organization in a significant capacity.

Mr. Fred Wert provided services to TLCSKC with the railbanking transaction and benefited financially. Mr. Wert's website was directly linked from the Rails-to-Trails Conservancy's website.

Nationwide, the Rails-to-Trails Conservancy becomes the common factor in railbanking transactions. The fact that this organization has the goal of establishing parks and trails would not excuse participation in federal tax fraud. It should be determined if this organization has been a liaison between the railroads and prospective trail owners, and advises the parties about using illegal tax schemes.

The ownership issue:

It may seem premature for me to submit this claim with the title to the right of way land undecided in the courts. But, the resolution of those many cases will take years, and the timeliness of dealing with Arthur Andersen LLP will likely be lost due to its present alleged misconduct, and prosecution, in the Enron scandal. Further the alleged railbanking fraud needs to be considered separately from the ownership issue. Ownership will only determine the degree of the fraud, as explained above.

When the King County Prosecutor is presented with this information, he will undoubtedly put up a "smoke screen" using his preliminary success with the ownership

issue in the courts to deflect attention from the fraud. His preliminary success on the ownership issue has little bearing on his alleged participation in federal tax fraud.

King County has taken my wife and me to court to determine ownership of the East Lake Sammamish right of way land associated with our property. That case is King County v Rasmussen, and a federal court decision was found in favor of the County. The case is presently in appeal before the Federal 9th Circuit. While I do not speculate here on how that court will hold, my presence in the 9th Circuit, and briefs to the court, express my convictions and commitment to resolving that issue, and defending my rights. I cannot wait, however, for the delay imposed by the 9th Circuit's busy schedule to bring this timely information forward.

Summary:

In a past, more idyllic time, there existed many levels of protection in our society that would have prevented this tax fraud scheme from progressing to where it stands today. I have brought my concerns to every level of government from the city level to the U.S. Senate, without one significant reply, and without one public official asking to even look at the evidence. We live in a time where political survival takes priority over commitment to the law, and public officials refuse to react to evidence of fraud when it might cost them votes.

The evidence of corruption on East Lake Sammamish has been ignored because it is associated with railbanking. This federal law has been used to take land from thousands of Americans, nationwide. Only one couple has received compensation after almost twenty years, and only after many appearances in court and years of frustrating struggle. Thousands wait for justice, or give up in disgust, as politicians ignore their rights. This happens because it is politically unpopular to support any actions that would hold back the establishment of parks and trails. Trails are very much needed in our communities, but they should not be established through dishonest means.

We cannot survive as a nation if elected politicians at every level turn their eyes away from evidence of corruption, as it would appear has happened here.

I ask the Internal Revenue Service to investigate this evidence of tax fraud. I pledge whatever help I can provide, regardless if a reward is available or not.

Sincerely,

John Rasmussen